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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRANCINE GUARINO,

Plaintiff,

Case No.: 2:13-cv-02135-GMN-NJK

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a Political Subdivision of the
STATE OF NEVADA; OFFICER SHANNON
ROHRBAUGH, #9013; OFFICER M.
LAYTHORPE, #5448; OFFICER D.
BROTHERSON, #4931; OFFICER K.
COLLMAR, #6965; DETECTIVE J. BANGLE,
#4677; DETECTIVE K. TOMASO, #6848;
DETECTIVE D. FREEMAN #4487;
DETECTIVE R. TUSKO, #4515; DOE POLICE
OFFICERS I-XX; ROE CORPORATIONS I-X,
and JOHN DOES I-X; inclusive,,

Defendants.

ORDER GRANTING

DEFENDANTS' MOTION FOR EXCEPTION TO THE PERSONAL ATTENDANCE
REQUIREMENT AT THE SETTLEMENT CONFERENCE SCHEDULED FOR
JANUARY 20, 2015

Defendants Las Vegas Metropolitan Police Department, Ofc. Rohrbaugh, Ofc. Laythorpe,
Ofc. Brotherson, Ofc. Collmar, Det. Bangle, Det. Tomaso, Det. Freeman, and Det. Tusko
(collectively "LVMPD Defendants"), by and through their counsel of record, Craig R. Anderson,
Esq. of the law firm of Marquis Aurbach Coffing, hereby submits this request for exception of
attendance at the settlement conference scheduled for January 20, 2015.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On May 8, 2013, Plaintiff Francine Guarino (“Guarino”) was involved in a motor vehicle accident with Las Vegas Metropolitan Police Department (“LVMPD”) motorcycle officer Shannon Rohrbaugh (“Ofc. Rohrbaugh”). The accident caused both Ofc. Rohrbaugh and Guarino to incur injuries. Due to the seriousness of the accident, LVMPD’s fatal traffic unit was summoned to the scene to conduct an investigation. The fatal traffic unit was comprised of defendants Det. Freeman, Det. Tusko, Det. Bangle, Ofc. Collmar, Ofc. Brotherson, and Ofc. Laythorpe (collectively referred to as the “Traffic Unit”). The Traffic Unit investigated the accident and concluded that Guarino caused the accident by running a red light. Guarino pled no contest to the citation.

Guarino is now suing LVMPD, Ofc. Rohrbaugh and the Traffic Unit.¹ Essentially, the complaint is two separate lawsuits. The first lawsuit is Guarino’s personal injury lawsuit against LVMPD and Ofc. Rohrbaugh (“Guarino’s PI lawsuit”). In Guarino’s PI lawsuit, Guarino denies running a red light and claims that Ofc. Rohrbaugh was the cause of the accident. *See Compl. at First and Second Causes of Action.* The second lawsuit alleges that the Traffic Unit unlawfully detained Guarino by requiring her to remain at the accident scene while it conducted its investigation. Guarino claims the Traffic Unit’s actions constitute an unconstitutional seizure pursuant to 42 U.S.C. § 1983 and state law false imprisonment. *See Compl. at Third and Fourth Causes of Action.*

Det. Bangle was the lead investigator and the person in charge of the Traffic Unit. Det. Bangle is the supervisor with the most knowledge regarding her 42 U.S.C. §1983 claim.

II. REQUEST FOR EXCEPTION

This filing requests that Det. Freeman, Det. Tusko, Ofc. Collmar, Ofc. Brotherson and Ofc. Laythorpe be excused from the court’s personnel attendance requirement. The LVMPD Defendants request that only Ofc. Rohrbaugh and Det. Bangle be required to attend.

¹ Sheriff Gillespie has have dismissed from the lawsuit. *Court dkt. nos. 28 and 29.*

On November 21, 2014, the court issued its order scheduling a settlement conference. *Court dkt. #35*. The order states that “[a]ny request for an exception to the above personal attendance requirement must be filed and served on all parties within fourteen (14) days of the issuance of this order.” The LVMPD Defendants recognize that their current request is untimely. Nonetheless, the LVMPD Defendants respectfully request that the court consider the following request.

Finally, the LVMPD Defendants have discussed this matter with opposing counsel, who has graciously agreed that Det. Freeman, Det. Tusko, Ofc. Collmar, Ofc. Brotherson, and Ofc. Laythorpe need not attend should the court so order.

Dated this 16 day of December, 2014.

MARQUIS AURBACH COFFING

By 

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Attorney(s) for Defendants

ORDER

IT IS SO ORDERED that, good cause appearing therefore, that Defendants Det. Freeman, Det. Tusko, Ofc. Collmar, Ofc. Brotherson, and Ofc. Laythorpe’s personal attendance at the settlement conference scheduled for January 20, 2015, at 10:00 a.m., is waived.

Dated this 17th day of December, 2014.


United States Magistrate Judge Koppe